

141-1290  
504 #7

PATENT

Attorney Docket No. 4189.0083-06000

4770

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
THOMPSON et al )  
 )  
Serial No.: 08/482,283 ) ATTN: Office of the Deputy  
 ) Assistant Commissioner for  
Filed: June 7, 1995 ) Patent Policy and Projects  
 )  
For: PEGYLATION OF POLYPEPTIDES ) Special Program Law Office

Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

RECEIVED

OCT 10 1996

OFFICE OF PETITIONS  
AND APPEALS

Sir:

PETITION TO REVIVE UNINTENTIONALLY ABANDONED PATENT APPLICATION

Applicants petition to have the above-noted patent application revived since it was unintentionally abandoned. The petition fee of \$1,290.00 is enclosed. A Notice to File Missing Parts ("Notice") issued from the United States Patent and Trademark Office ("USPTO") on August 18, 1995. (A copy of the Notice is enclosed.) The undersigned was under the mistaken understanding that his firm's client Amgen Boulder was handling a response to this Notice.

At about the fifth month due date for filing a response, the undersigned contacted Amgen Boulder to confirm that they had responded. Debra Hickey of Amgen Boulder informed the undersigned that Amgen Boulder had handled a response in a related

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application, but had not responded to the Notice in this application. The Notice required an oath or Declaration and the filing fee. The undersigned realized that he did not have sufficient time to obtain signatures of the inventors in order to file a timely response.

In an effort to prevent the application from being abandoned, the undersigned filed a Response to Notice of Missing Parts, Petition Under Rule 182 to Convert a Rule 53 Divisional Application Into a Rule 60 Divisional Application ("Response"), and Petition For Extension of Time. Applicants requested that the application be converted to a Rule 60 divisional application so that a new declaration would not be required. Applicants enclosed a true copy of the Declaration that had been filed in a parent application and a copy of the Notice, and enclosed the required filing fees, missing parts surcharge, and petition fee. (Copies of the Response and the Postcard indicating receipt by the USPTO, and copies of the checks, including a copy of the back of the canceled checks, are enclosed.)

On January 24, 1996, the undersigned filed a Communication that brought to the attention of the USPTO an error in the Serial Number provided on the previously filed Response. The Response had included the erroneous serial number 08/482,238, rather than

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the correct serial number 08/482,283. (Copies of the Communication and receipt stamped postcard are enclosed.) All other identifying information on the papers (e.g., filing date, applicants, title, attorney docket number) identified the correct application.

In response to a telephone request from Ms. Josie Ballato of the USPTO, the undersigned submitted a Second Communication Regarding Serial Number ("Second Communication") on May 29, 1996. (Copies of the Second Communication and facsimile cover page and Confirmation Report are enclosed.)

On June 19, 1996, the USPTO mailed a Decision Dismissing Petition ("Decision"), which noted that, among other things, to prevent the application from being abandoned, the applicant must present within two months a statement that the copy of the filed application was a true copy of the parent application. (A copy of the Decision is enclosed.) Since the filed application was not a true copy of the parent application, applicants could not make that statement. Since the USPTO is not waiving that requirement of the rule, applicants understand that the USPTO considers the application abandoned.

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Applicants have enclosed all of the other material requested in the Decision,<sup>1</sup> which shows that they attempted to respond to the Notice in a timely fashion on January 17, 1996, including the filing of the requisite Petition for Extension of Time and extension of time fees. In fact, the USPTO cashed the submitted checks. Thus, the application was abandoned on January 17, 1996.

Applicants now present newly executed Declarations to satisfy the requirements of an application under Rule 53 (one signed by inventor Thompson, one signed by inventor Armes, and one signed by inventors Evans, Brewer, and Kohno) and withdraw the request that the application be converted into a Rule 60 divisional application. The application was abandoned unintentionally, and there has been no intentional delay in reviving the application. Accordingly, applicants request that the above-noted application be revived.

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<sup>1</sup> The Decision also requested clarification of a typographical error in the Response. At page 2, first full paragraph of the Response, applicants requested conversion of the Rule 53 application to Rule 60 application of prior application Serial No. 08/319,413. As noted in the immediately preceding sentence, that Serial No. should have been listed as Serial No. 08/319,506. In any event, the Petition to Convert is being withdrawn, and this application will be a Rule 53 continuation application of Serial No. 08/319,506, as noted in the original filing papers.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By: 

M. Paul Barker

Reg. No. 32,013

Dated: October 10, 1996

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